

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRANK DELUCA,

PLAINTIFF,

V

CITY OF PITTSBURGH,
BRIAN BURGUNDER,
DAVID HONICK,
DAVID LINCOLN,

DEFENDANTS.

Lead Case: 18-cv-01567

Consolidating: 18-cv-01587
19-cv-00216
19-cv-00617

JUDGE CATHY BISSOON

DAVID LINCOLN AND DEBORAH SIWIK,

COUNTERCLAIM PLAINTIFFS,

V

FRANK DELUCA, an adult,
MICHAEL ZOKAITIS, an adult, and
KOPY'S LIMITED t/d/b/a KOPY'S BAR,
A Pennsylvania corporation,

COUNTERCLAIM DEFENDANTS.

JURY TRIAL DEMANDED

**DEFENDANTS, FRANK DELUCA AND KOPY'S LIMITED t/d/b/a KOPY'S BAR'S
COMPLAINT TO JOIN ADDITIONAL DEFENDANTS**

AND NOW, come Defendants, Frank Deluca by and through his attorneys, Kathleen S. McAllister, Esquire and DiBella Weinheimer, and Kopy's Limited t/d/b/a Kopy's Bar, by and through its attorneys, George R. Farneth II, Esquire and The Farneth Law Group, LLC who file this Complaint to Join Additional Defendants, averring as follows:

1. Counterclaim Plaintiffs, David Lincoln and Deborah Siwik, are adult individuals and husband and wife who are believed to reside in Allegheny County, Pennsylvania.

2. Defendant, Frank Deluca, is an adult individual who resides in Allegheny County, Pennsylvania.

3. Defendant, Kopy's Limited t/d/b/a Kopy's Bar ("Kopy's") is a Pennsylvania corporation which, at all times partnered hereto, owned and operated a bar called Kopy's Bar which was located at 80 South 12th Street, Pittsburgh, Allegheny County, Pennsylvania.

4. Additional Defendant, Brian Martin, is an adult individual and City of Pittsburgh police officer who, at all times partnered hereto, resided and worked in Allegheny County, Pennsylvania.

5. Additional Defendant, David Honick, is an adult individual and City of Pittsburgh police officer who, at all times partnered hereto, resided and worked in Allegheny County, Pennsylvania.

6. Additional Defendant, Brian Burgunder, is an adult individual and City of Pittsburgh police officer who, at all times partnered hereto, resided and worked in Allegheny County, Pennsylvania.

7. Additional Defendant, City of Pittsburgh, the "City" is a municipality within the Commonwealth of Pennsylvania which, at all times partnered hereto, maintained a principal place of business located at 414 Grant Street, Pittsburgh, Allegheny County, Pennsylvania, 15219.

8. At all times partnered hereto, the City was authorized and did own, operate, manage, supervise, direct, control, and maintain a police department which, at all times pertinent hereto, was and is known as the City of Pittsburgh Department of Public Safety Borough Police.

9. At all times partnered hereto, the City was acting by and through its authorized agents, servants, employees, representatives, and ostensible agents, including but not limited to Martin, Honick, and Burgunder who were then and there acting within the course and scope of their employment with and in furtherance of the business operations of and for the City.

10. On or about September 5, 2019, Lincoln and Siwik filed a Counterclaim Complaint in Civil Action (“Complaint”) (Doc. 96).

11. In their Complaint, Lincoln and Siwik alleged that they suffered certain injuries, damages, and losses as a result of an incident that occurred at Kopy’s on October 12, 2018.

12. In the Answer and Affirmative Defenses they each filed (Docs. 98 and 125), Deluca and Kopy’s denied they were in any way liable to Lincoln and Siwik.

13. If it is determined at the time of trial that Lincoln and/or Siwik are entitled to a recovery, which is specifically denied, for the reasons set forth in Docs. 98 and 125, as well as the Amended Complaint in Civil Action, Kopy’s Bar filed (Doc. 166) any injuries, damages, and/or losses they may be entitled to recover were the sole, direct, proximate, factual, and legal result of the actions and/or inactions of Additional Defendants, Martin, Honick, Burgunder, and the City such that they are solely liable to Lincoln and Siwik, and/or are jointly and severally liable to Lincoln and Siwik, and/or are liable over to Deluca and Kopy’s for indemnification and contribution.

Wherefore, Defendants, Frank Deluca and Kopy’s Limited t/d/b/a Kopy’s Bar, demand judgment in their favor and against Plaintiffs, David Lincoln and Deborah Siwik or, in the alternative, they demand judgment in their favor and against Additional Defendants, Brian Martin, David Honick, Brian Burgunder, and the City of Pittsburgh for indemnification and contribution, attorneys’ fees, costs, and such other relief as this Honorable Court deems appropriate.

Respectfully Submitted:

THE FARNETH LAW GROUP, LLC

Date: February 1, 2023

By:

/s/ George R. Farneth II

George R. Farneth II, Esquire,
Attorneys for Counterclaim Defendant,
Kopy's Limited t/d/b/a Kopy's Bar

DiBELLA WEINHEIMER

Date: February 1, 2023

By:

/s/ Kathleen S. McAllister

Kathleen S. McAllister, Esquire,
Attorneys for Counterclaim Defendant,
Frank Deluca

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendants, Frank Deluca and Kopy's Limited t/d/b/a Kopy's Bar's Complaint to Join Additional Defendants** was served via the Court's CM/ECF system this 1st day of February 2023.

Respectfully Submitted:

THE FARNETH LAW GROUP, LLC

/s/ George R. Farneth II

George R. Farneth II, Esquire,
Attorneys for Counterclaim Defendant,
Kopy's Limited t/d/b/a Kopy's Bar

DiBELLA WEINHEIMER

/s/ Kathleen S. McAllister

Kathleen S. McAllister, Esquire,
Attorneys for Counterclaim Defendant,
Frank Deluca